

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
WASTE DISCHARGE PERMIT No. [WA-002442-2](#)

United States Environmental Protection Agency  
Region 10  
1200 Sixth Avenue  
Seattle, Washington 98101

AUTHORIZATION TO DISCHARGE  
AND LAND APPLY/TRANSFER SEWAGE SLUDGE (BIOSOLIDS)  
UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et seq., as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act",

Swinomish Reservation Sewer District, Shelter Bay  
Box A, Shelter Bay  
La Conner, Washington 98257

<u>Plant Location:</u>	<u>Receiving Water</u>
101 Samish Place	Swinomish Channel
Swinomish Indian Reservation	
LaConner, Washington	
<u>Plant Type:</u> Secondary biological treatment,	<u>Discharge Location</u>
Activated Sludge – Oxidation	Latitude: 48° 23' 12" N
Ditch	Longitude: 122° 30' 16" W

is authorized to discharge treated wastewater and transfer biosolids from a wastewater treatment facility located at the Shelter Bay Community within the Swinomish Indian Reservation. Discharge enters the Swinomish Channel in accordance with the discharge point, effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective December 22<sup>nd</sup> 1999.

This permit and the authorization to discharge and transfer biosolids shall expire at midnight, December 22<sup>nd</sup> 2004.

Signed this 22<sup>nd</sup> day of December 1999.

/s/ Roger K. Mochnick for  
Director, Office of Water Region 10  
U.S. Environmental Protection Agency

## TABLE OF CONTENTS

SUMMARY OF SCHEDULED PERMIT REPORT SUBMITTALS .....	4
---	---

### SPECIAL CONDITIONS

S1.	DISCHARGE LIMITATIONS .....	5
A.	Effluent Limitations	
B.	Mixing Zone Descriptions	
S2.	MONITORING REQUIREMENTS .....	6
A.	Monitoring Schedule	
B.	Sampling and Analytical Procedures	
C.	Flow Measurement	
D.	Laboratory Accreditation	
S3.	RESIDUAL SOLIDS DISPOSAL & MONITORING .....	7
A.	Requirements for Beneficial Reuse and Transfer	
B.	Sampling and Record Keeping for Sludge/Biosolids	
C.	Contingency Planning	
S4.	REPORTING AND RECORD KEEPING REQUIREMENTS for WASTEWATER ...	9
A.	Reporting	
B.	Records Retention	
C.	Recording of Results	
D.	Additional Monitoring by the Permittee	
E.	Twenty-four Hour Noncompliance Reporting	
F.	Noncompliance Notification	
G.	Bypass & Overflow Reporting - Shellfish Protection	
S5.	FACILITY LOADING .....	12
A.	Design Criteria	
B.	Plans for Maintaining Adequate Capacity	
C.	Notification of New or Altered Sources	
S6.	OPERATION AND MAINTENANCE .....	13
A.	Certified Operator	
B.	O & M Program	
C.	Short-term Reduction	
D.	Electrical Power Failure	
E.	Prevent Connection of Inflow	
F.	Bypass Procedures	
G.	Operations and Maintenance Manual	
S7.	OUTFALL EVALUATION .....	16

### GENERAL CONDITIONS

G1.	SIGNATORY REQUIREMENTS .....	17
-----	------------------------------	----

G2.	RIGHT OF ENTRY .....	17
G3.	PERMIT ACTIONS .....	18
G4.	REPORTING A CAUSE FOR MODIFICATION .....	18
G5.	COMPLIANCE WITH OTHER LAWS AND STATUTES .....	18
G6.	DUTY TO REAPPLY .....	18
G7.	REMOVED SUBSTANCES .....	19
G8.	TOXIC POLLUTANTS .....	19
G9.	OTHER REQUIREMENTS OF 40 CFR .....	19
G10.	ADDITIONAL MONITORING .....	19
G11.	PENALTIES FOR VIOLATING PERMIT CONDITIONS .....	19
G12.	UPSET CONDITIONS .....	20
G13.	DUTY TO MITIGATE .....	21

### SUMMARY OF SCHEDULED PERMIT REPORT SUBMITTALS

Permit Section	Submittal	Frequency	First Submittal Date
S3.	Discharge Monitoring Report	Monthly	
<del>S</del> 8.	Outfall Evaluation	<del>2</del> Once /permit cycle	180 days after permit effective date
G1.	Notice of Change in Authorization	as necessary	Not applicable
G7.	Application for permit renewal	<del>4</del> Once/permit cycle	180 days before permit expiration

## SPECIAL CONDITIONS

### S1. ~~EFFLUENT~~DISCHARGE LIMITATIONS

#### A. Effluent Limitations

All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit. The discharge of any of the following pollutants more frequently than, or at a concentration in excess of, that authorized by this permit shall constitute a violation of the terms and conditions of this permit.

Beginning on the effective date of this permit and ~~lasting through the expiration date~~ the Permittee is authorized to discharge municipal wastewater at the permitted location subject to the following limitations:

	EFFLUENT LIMITATIONS <sup>a</sup> : OUTFALL # 1	
Parameter	Average Monthly	Average Weekly
Biochemical Oxygen Demand <sup>b</sup> (5 day)	30 mg/L, 57 lb./day	45 mg/L, 85 lb./day
Total Suspended Solids <sup>b</sup>	30 mg/L, 57 lb./day	45 mg/L, 85 lb./day
Fecal Coliform Bacteria	200/100 mL	400/100 mL
pH	Not less than 6.0 and not greater than 9.0	
Interim Total Residual Chlorine <sup>c</sup>	0.5 mg/L, 0.95 lb./day	0.75 mg/L
Parameter	Average Monthly	Maximum Daily
Final Total Residual Chlorine <sup>c</sup>	0.05 mg/L, 0.095 lb./day	0.14 mg/L
<sup>a</sup> The average monthly and weekly effluent limitations are based on the arithmetic mean of the samples taken with the exception of fecal coliform, which is based on the geometric mean.		
<sup>b</sup> The average monthly effluent concentration for BOD <sub>5</sub> and Total Suspended Solids shall not exceed 30 mg/L or 15 percent of the respective monthly average influent concentrations, whichever is more stringent.		
<sup>c</sup> The Permittee shall comply with the Final Total Residual Chlorine limitation by September 30, 2002. Until that time the Interim Total Residual Chlorine Limitation shall apply to the discharge.		

#### B. Mixing Zone Descriptions

The discharge will not exceed marine acute water quality criteria listed in the State of Washington Water Quality Standards – Surface Waters (WAC 173-201A) beyond a distance of 22 feet from the outfall. The discharge will not exceed marine chronic water quality criteria listed in the State of Washington Water Quality Standards – Surface Waters (WAC 173-201A) beyond a distance of 220 feet from the outfall.

The dilution during critical conditions 22 feet from the outfall terminus is estimated at 11:1 (9.1% effluent) and 220 feet from the outfall terminus is 53:1 (2% effluent).

### S2. ~~TESTING SCHEDULE~~MONITORING REQUIREMENTS

A. Monitoring Schedule

**Table S2A.1: ~~Base~~ Effluent Monitoring Requirements —applicable throughout the year**

Tests	Sample Point	Minimum Sampling Frequency	Sample Type
Flow (MGD)	Effluent	continuous	on-line
BOD <sub>5</sub>	Influent	31/week	24-hour composite
	effluent	31/week	24-hour composite
TSS	Influent	31/week	24-hour composite
	final effluent	31/week	24-hour composite
Total Ammonia as N	final effluent	1/quarter	24-hour composite
Fecal Coliform Bacteria	final effluent	1/week-Oct.-Apr. 2/week-May-Sep.	Grab
pH	final effluent	daily	Grab
Total Residual Chlorine	final effluent	daily	Grab

B. Sampling and Analytical Procedures

Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored parameters, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets and maintenance-related conditions affecting effluent quality.

Sampling and analytical methods used to meet the water and wastewater monitoring requirements specified in this permit shall conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 CFR Part 136 or to the latest revision of *Standard Methods for the Examination of Water and Wastewater* (APHA), unless otherwise specified in this permit or approved in writing by the Permit Administrator.

C. Flow Measurement

Error! Bookmark not defined.Error! Bookmark not defined.

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the quantity of monitored flows. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements are consistent with the accepted industry standard for that type of device. Frequency of calibration shall be in conformance with manufacturer's recommendations and at a minimum frequency of at least one calibration per year. Calibration records shall be maintained for at least three years.

Error! Bookmark not defined.Error! Bookmark not defined.D. Laboratory Accreditation

Error! Bookmark not defined.Error! Bookmark not defined.

All monitoring data shall be prepared by a laboratory accredited under the provisions of “Accreditation of Environmental Laboratories” Chapter 173-50 WAC of the State of Washington. Flow, ammonia, temperature, and internal process control parameters are exempt from this requirement. Biosolids/sludge monitoring data is exempt from this requirement.

### **S3. RESIDUAL SOLIDS DISPOSAL & MONITORING**

Residual solids include screenings, grit, scum, primary sludge, waste activated sludge and other solid waste. The Permittee shall store and handle all residual solids in such a manner so as to prevent their entry into Swinomish or state ground or surface waters. The Permittee shall not discharge leachate from residual solids to Swinomish or state waters.

The Permittee is responsible for the proper treatment, use, and disposal of its sludge and biosolids. The Permittee shall ensure that its sludge and biosolids are treated in compliance with the requirements of 40 CFR §503 as well as statutes, regulations, and rules of the SITC, Washington State, and county health departments as applicable to the treatment and disposal methodology.

#### **A. Requirements for Beneficial Reuse and Transfer**

1. Sewage sludge is to be transferred to any processing facility (the receiving facility) that produces Class A or Class B biosolids for treatment and beneficial use or a facility that incinerates the sludge in accordance with the provisions of the requirements of 40 CFR §503 and this permit. The Permittee shall furnish any necessary information, including records of treatment, sampling, and analysis required by the receiving facility to comply with the requirements placed on the receiving facility by federal, tribal, state, and local jurisdictions. The Permittee shall provide the receiving facility with information necessary to comply with 40 CFR §503 Subparts A, B, and D as applicable. The Permittee shall cooperate with the receiving facility to assure proper treatment, use, and disposal of sludge and biosolids generated at the Permittee's facility. The Permittee shall notify the Permit Administrator 30 days in advance of any changes to its processing methods.
2. Any receiving facility that is located within the jurisdiction of the State of Washington must be covered under the general or an individual permit issued under Chapter 173-308 Washington Administrative Code. The receiving facility's permit must not prohibit receipt of biosolids from other sources.
3. Sludge delivery shall be suspended or discontinued upon receipt of written instructions from EPA. The permittee may only resume delivery of sludge upon receipt of written authorization from EPA.

If any other appropriate authority submits a written request to the sludge generator or recipient to suspend or cease any activities associated with sludge management, the permittee shall deliver a copy of this request to EPA within 5 days of receiving the request. "Appropriate authority" includes any federal, tribal, state, or local agency with regulatory authority over sludge management at either the generator or recipient facility.

4. **Inspection Access:** The Permittee shall notify the receiving facility and any other affected parties that the provisions in Condition G2 (Right of Entry) of this permit are applicable to all facilities where sludge is transported, treated, stored, used, or disposed. This notice shall be in writing.
5. The permittee shall handle and dispose of sludge so the public health and the environment are protected from any reasonably anticipated adverse effects due to any toxic pollutants that may be present. The Permittee shall ensure pollutants from the sludge do not reach Swinomish or state waters.

#### **B. Sampling and Record Keeping for Sludge/Biosolids**

The Permittee is to gather and record the following information, and must retain the information for 5 years. The falsification of shall constitute a violation of the terms and conditions of this permit

1. For each shipment of sludge transferred, the permittee shall record the volume of sludge transferred, the percent solids of the shipment, and an estimate of the dry weight, the sludge/biosolids receiving facility, and the individuals or entities (the hauler) that transfer the sewage sludge to the receiving facility.
2. The Permittee shall collect and analyze sludge samples at least once per calendar year. The samples shall be representative of the variability in sludge quality considering location, season, processing, and handling. Analytical protocols shall be in accordance with 40 CFR §503.8. Analyze the sludge for its content of arsenic, cadmium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc on a mg/Kg dry weight basis for each pollutant.

Records of monitoring information must include:

- The date, place and time of sampling or measurements;
- The individual(s) who performed the sampling or measurements;
- The date(s) analyses were performed;
- The individual(s) who performed the analyses;
- The analytical techniques or methods used; and
- The results of the analyses.

7. The Permittee shall obtain and keep records of any analysis and treatment performed by the processor of its sludge/biosolids as needed to demonstrate compliance with 40 CFR §503 Subparts A, B, and D as applicable. The sludge/biosolids receiving facility shall provide written documentation as applicable (these requirements are not applicable to incineration of sludge) describing how with the pathogen [§ 503.32(b)] and vector attraction reduction requirements [§ 503.33(b)(1) through 503.33(b)(8)] were met for the Permittee's sludge. The Permittee shall obtain the documentation no less frequently than annually.

C. Contingency Planning

The Permittee shall maintain an alternative sludge/biosolids disposal option. The permittee shall prepare a written contingency plan within 6 months of the effective date of this permit and keep it on record at the WWTP. The contingency plan shall include:



- An estimate of the maximum duration of any period when the primary receiving facility may be unavailable for sludge disposal.
- Options for sludge storage, or alternate disposal, sufficient to cover the estimated maximum duration of any period when the primary receiving facility may be unavailable. These options must be in accordance with the provisions of 40 CFR §503.

#### **S4. ~~MONITORING AND REPORTING~~REPORTING AND RECORD KEEPING REQUIREMENTS for WASTEWATER**

The Permittee shall monitor the wastewater discharge and report in accordance with the following conditions.

**The falsification of information submitted to the Permit Administrator shall constitute a violation of the terms and conditions of this permit.**

##### **A. ~~Reporting~~**

~~Monitoring results obtained during the previous month shall be summarized and reported on a form provided, or otherwise approved, by the Department, to be submitted no later than the 15th day of the month following the completed reporting period, unless otherwise specified in this permit. The report(s) shall be sent to the Department of Ecology,   ?   Regional Office   ?  , Washington   ?  . Monitoring shall be started on the effective date of the permit and the first report is due on the 15th day of the following month. Monitoring results obtained during the month shall be summarized on the Discharge Monitoring Report (DMR) Form (EPA 3320-1) and submitted no later than the 15th day of the following month.~~

~~Monitoring shall be started on the effective date of the permit. Monitoring results obtained during the previous three (3) months shall be summarized and reported on the Discharge Monitoring Report (DMR) Form (EPA 3320-1) and submitted no later than the 15th day of the month following the completed reporting period. The report shall be sent to the Department of Ecology,   ?   Regional Office,   ?  , Washington,   ?  .~~

##### **B. ~~Records Retention~~**

~~The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by the Director.~~

##### **C. ~~Recording of Results~~**

~~For each measurement or sample taken, the Permittee shall record the following information: (1) the date, exact place and time of sampling; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.~~

##### **D. ~~Representative Sampling~~**

~~Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored discharge, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets and maintenance-related conditions affecting effluent quality.~~

E. ~~Test Procedures~~

~~All sampling and analytical methods used to meet the monitoring requirements specified in this permit shall conform to the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 CFR Part 136, unless otherwise specified in this permit or approved in writing by the Department.~~

F. ~~Flow Measurement~~

~~Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements are consistent with the accepted industry standard for that type of device. Frequency of calibration shall be in conformance with manufacturer's recommendations or at a minimum frequency of at least one calibration per year. Calibration records should be maintained for a minimum of three years.~~

G. ~~Laboratory Accreditation~~

~~All monitoring data, except for flow, temperature, settleable solids, conductivity, pH, and internal process control parameters, shall be prepared by a laboratory registered or accredited under the provisions of, Accreditation of Environmental Laboratories, chapter 173-50 WAC. Conductivity and pH shall be accredited if the laboratory must otherwise be registered or accredited. Soils and hazardous waste data are exempted from this requirement pending accreditation of laboratories for analysis of these media by the Department.~~

H. ~~Additional Monitoring by the Permittee~~

~~If the Permittee monitors any pollutant more frequently than required by this permit (S2.) using test procedures specified by Condition S3.E. of this permit, then the results of this monitoring shall be included in calculation and reporting of the data submitted in the Permittee's self-monitoring reports.~~

A. **Reporting**~~Error! Bookmark not defined.~~**Error! Bookmark not defined.**

**The first monitoring period begins on the effective date of the permit. Monitoring results shall be submitted monthly. Monitoring data obtained during the previous month shall be summarized and reported on the forms provided, or otherwise approved, by the Permit Administrator, and be received no later than the 15th day of the month following the completed reporting period, unless otherwise specified in this permit. The reports shall be submitted to both EPA and the Swinomish Indian Tribal Community. Submit the original, signed monthly summary report (form EPA No. 3320-1) to EPA Region 10. Submit the Wastewater Treatment**

Plant Monitoring Report (the daily monitoring form) and the monthly summary report to the Swinomish Indian Tribal Community.

~~The original signed monthly report shall be sent to the Permit Administrator of Ecology, US Environmental Protection Agency, Region 10, 1200 Sixth Avenue, OW-133, Seattle, WA 98101. The Permittee shall send copies of the daily and monthly summary report to the Water Quality Program, Swinomish Tribal Community Office of Planning and Community Development, PO Box 817, LaConner, WA 98257.~~

All lab reports providing data for organic and metal parameters shall include the following information: sampling date, sample location, date of analysis, parameter name, CAS number, analytical method/ number, method detection limit (MDL), lab practical quantitation limit (PQL), reporting units and concentration detected.

~~In addition to the monthly (or ) report, a monthly (or ) summary report form (EPA No. 3320-1) shall be received no later than the 15th day of the following month. This report is limited to the parameters specified in condition(s).~~

~~The first monitoring period begins on the effective date of the permit. Monitoring results shall be submitted quarterly. Monitoring results obtained during the previous three (3) months shall be reported on the monthly forms as provided, or otherwise approved, by the Permit administrator, and be received no later than the 15th day of the month following the completed reporting period, unless otherwise specified in this permit. Priority pollutant analysis data shall be submitted no later than 45 days following the reporting period. The report shall be sent to the Department of Ecology, Regional Office, , Washington.~~

Note: If a parameter is reported on a routine basis the permit writer may not need all of this information on all data reports

All lab reports providing data for organic and metal parameters shall include the following information: sampling date, sample location, date of analysis, parameter name, CAS number, analytical method/ number, method detection limit (MDL), lab practical quantitation limit (PQL), reporting units and concentration detected.

~~Error! Bookmark not defined.Error! Bookmark not defined:~~

The Permittee shall retain records of all monitoring information for a minimum of three years. Such information shall include all equipment calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by the ~~Director~~Permit Administrator.

~~Error! Bookmark not defined.Error! Bookmark not defined:~~C. Recording of Results

~~Error! Bookmark not defined.Error! Bookmark not defined:~~

For each measurement or sample taken, the Permittee shall record the following information: (1) the date, exact place, method, and time of sampling; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

~~Error! Bookmark not defined.Error! Bookmark not defined:~~D. Additional Monitoring by the Permittee

~~Error! Bookmark not defined.Error! Bookmark not defined:~~

If the Permittee monitors any pollutant more frequently than required by this permit using test procedures specified by Condition S2. of this permit, then the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Permittee's self-monitoring reports.

E. Twenty-four Hour Noncompliance Reporting

1. The following occurrences of noncompliance shall be reported by telephone, to the EPA hotline at 206-553-1846 and the SITC Planning Office at (360) 466-7201, within 24 hours from the time the Permittee becomes aware of the circumstances:
  - a. Any noncompliance which may endanger health of the environment;
  - b. Any unanticipated bypass which exceeds any effluent limitation in the permit;

- c. Any upset which exceeds any effluent limitation in the permit (See Part G14, Upset Conditions.); or
  - d. Violations of the final maximum daily discharge limitation for total residual chlorine limit.
5. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
- a. A description of the noncompliance and its cause;
  - b. The period of noncompliance, including exact dates and times;
  - c. The estimated time noncompliance is expected to continue if it has not been corrected; and
  - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
5. The Permit Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Unit in Seattle, Washington and the Swinomish Planning Office.
6. Reports shall be submitted to the addresses (EPA and SITC) in Part S4.A, Reporting.

G.\_\_\_\_\_.

~~Error! Bookmark not defined.~~~~Error! Bookmark not defined.~~F. Noncompliance Notification

For instances of noncompliance not required to be reported under Part S4.E., the Permittee shall:

- 1. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation, and correct the problem;
- 2. Repeat sampling and analysis of any violation and submit the results to the Permit Administrator within 30 days after becoming aware of the violation;
- 3. Immediately notify the Permit Administrator and the Swinomish Indian Tribal Community of the failure to comply; and

4. Submit a detailed written report to the Permit Administrator and the SITC within thirty days unless requested earlier by the Permit Administrator. The report should describe the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of the re-sampling, and any other pertinent information.

Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

G. Bypass & Overflow Reporting - Shellfish Protection

Unauthorized discharges such as collection system overflows, plant bypasses, or failure of the disinfection system, shall be reported immediately to the Swinomish Indian Tribal Community and the Washington Department of Health, Shellfish Program. Notify the Swinomish Indian Tribal Community Office of Planning & Community Development at 360-466-7201. The Department of Health's Shellfish 24-hr. number is 360-753-5992.

**S5. FACILITY LOADING**

A. Design Criteria

Flows or waste loadings of the following design criteria for the permitted treatment facility shall not be exceeded:

Average flow for the maximum month: 227,400 gallons per day

BOD<sub>5</sub> loading for maximum month: 498 pounds per day

TSS loading for maximum month: 498 pounds per day

B. Plans for Maintaining Adequate Capacity

When the actual flow or wasteload reaches 85 percent of any one of the design criteria in S5.A. for three consecutive months, or when the projected increases would reach design capacity within five years, whichever occurs first, the Permittee shall submit a plan and a schedule for continuing to maintain capacity at the facility sufficient to achieve the effluent limitations and other conditions of

this permit to the Permit Administrator and the SITC. This plan shall address any of the following actions or any others necessary to meet this objective.

1. Analysis of the present design including the introduction of any process modifications that would establish the ability of the existing facility to achieve the effluent limits and other requirements of this permit at specific levels in excess of the existing design criteria specified in paragraph A above.

2. Reduction or elimination of excessive infiltration and inflow of uncontaminated ground and surface water into the sewer system.
3. Limitation on future sewer extensions or connections or additional waste loads.
4. Modification or expansion of facilities necessary to accommodate increased flow or wasteload.

The plan must meet the requirements of WAC 173-240-060, "Engineering Report," and be approved by the Department prior to any construction. The plan shall specify any contracts, federal and tribal ordinances and permits, methods for financing, and other arrangements necessary to achieve this objective.

C. Notification of New or Altered Sources

The Permittee shall submit written notice to the Permit Administrator and SITC whenever any new discharge or increase in volume or change in character of an existing discharge into the sewer is proposed which: (1) would interfere with the operation of, or exceed the design capacity of, any portion of the collection or treatment system; (2) is not part of an approved general sewer plan or approved plans and specifications; or would be subject to pretreatment standards under 40 CFR Part 403 and Section 307(b) of the Clean Water Act. This notice shall include an evaluation of the system's ability to adequately transport and treat the added flow and/or wasteload.

**S6. OPERATION AND MAINTENANCE**

The Permittee shall at all times be responsible for the proper operation and maintenance of any facilities or systems of control installed to achieve compliance with the terms and conditions of the permit.

A. Certified Operator

An operator certified for at least a Class       1 plant by the State of Washington shall be in responsible charge of the day-to-day operation of the wastewater treatment plant. An operator certified for at least a Class       1 plant shall be in charge during all regularly scheduled shifts.

B. O & M Program

The Permittee shall institute an adequate operation and maintenance program for their entire sewage system. Maintenance records shall be maintained on all major electrical and mechanical components of the treatment plant, as well as the sewage system and pumping stations. Such records shall clearly specify the frequency and type of maintenance recommended by the manufacturer and shall show the frequency and type of maintenance performed. These maintenance records shall be available for inspection at all times.

C. Short-term Reduction

If a Permittee contemplates a reduction in the level of treatment that would cause a violation of permit discharge limitations on a short-term basis for any reason, and such reduction cannot be avoided, the Permittee shall give written notification to the Permit Administrator and SITC, if possible, 30 days prior to such activities, detailing the reasons for, length of time of, and the potential effects of the reduced level of treatment. This notification does not relieve the Permittee of their obligations under this permit.

D. Electrical Power Failure

The Permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated wastes or wastes not treated in accordance with the requirements of this permit during electrical power failure at the treatment plant and/or sewage lift stations either by means of alternate power sources, standby generator, or retention of inadequately treated wastes. The Permittee shall maintain Reliability Class II (EPA 430-99-74-001) at the wastewater treatment plant, which requires primary sedimentation and disinfection at all times.

E. Prevent Connection of Inflow

The Permittee shall strictly enforce their and the tribe's sewer ordinances and not allow the connection of inflow (roof drains, foundation drains, etc.) to the sanitary sewer system.

F. Bypass Procedures

The Permittee shall immediately notify the Permit Administrator and the SITC of any spill, overflow, or bypass from any portion of the collection or treatment system.

The bypass of wastes from any portion of the treatment system is prohibited unless one of the following conditions (1, 2, or 3) applies:

1. Unavoidable Bypass -- Bypass is unavoidable to prevent loss of life, personal injury, or severe property damage. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.

If the resulting bypass from any portion of the treatment system results in noncompliance with this permit the Permittee shall notify the Permit Administrator and the SITC in accordance with condition S4.E "24-Hour Non-compliance Reporting."



2. Anticipated Bypass That Has The Potential to Violate Permit Limits or Conditions -- Bypass is authorized by an administrative order issued by the Permit Administrator. The Permittee shall apply to the Permit Administrator and copy the SITC for the administrative order at least 30 days before the planned date of bypass. The written submission shall contain (1) a description of the bypass and its cause; (2) an analysis of all known alternatives which would eliminate, reduce, or mitigate the need for bypassing; (3) a cost-effectiveness analysis of alternatives including comparative resource damage assessment; (4) the minimum and maximum duration of bypass under each alternative; (5) a recommendation as to the preferred alternative for conducting the bypass; (6) the projected date of bypass initiation; (7) a statement of compliance with NEPA; (8)a statement of compliance with applicable Tribal regulations for construction activities; and (9) steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

For probable construction bypasses, the need to bypass is to be identified as early in the planning process as possible. The analysis required above shall be considered during preparation of the engineering report or facilities plan and plans and specifications and shall be included to the extent practical. In cases where the probable need to bypass is determined early, continued analysis is necessary up to and including the construction period in an effort to minimize or eliminate the bypass.

The Permit administrator will consider the following prior to issuing an administrative order:

- a. If the bypass is necessary to perform construction or maintenance-related activities essential to meet the requirements of the permit.
- b. If there are feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, maintenance during normal periods of equipment down time, or transport of untreated wastes to another treatment facility.
- c. If the bypass is planned and scheduled to minimize adverse effects on the public and the environment.
- d. If the bypass complies with applicable tribal regulations.

After consideration of the above and the adverse effects of the proposed bypass and any other relevant factors, the Permit Administrator, in consultation with the SITC, will approve or deny the request. The public shall be notified and given an opportunity to comment on bypass incidents of significant duration, to the extent feasible. Approval of a request to bypass will be by administrative order issued by the Permit Administrator.

3. Bypass For Essential Maintenance Without the Potential to Cause Violation of Permit Limits or Conditions -- Bypass is authorized if it is for essential maintenance and does not have the potential to cause

violations of limitations or other conditions of the permit, or adversely impact public health.

G. Operations and Maintenance Manual

The approved Operations and Maintenance (O&M) Manual shall be kept available at the treatment plant and all operators shall follow the instructions and procedures of this Manual. This manual shall comply with applicable tribal regulations.

The O&M Manual shall include:

1. Emergency procedures for plant shutdown and cleanup in event of wastewater system upset or failure;
2. Plant maintenance procedures;
3. The treatment plant process control monitoring schedule.

**S7. OUTFALL EVALUATION**

The Permittee shall inspect the submerged portion of the outfall line and diffuser to document its integrity and continued function by 12 months after permit issuance. The Permittee shall ensure that the discharge nozzle is in place, that the effluent is discharging from the nozzle, and that the outfall line has no broken sections of pipe or significant leaks.

The inspection report for the outfall evaluation shall include a description of the condition of the outfall pipe and diffuser, photographs of the outfall line if conditions allow, and the name and signature of the person who performed the inspection. The inspection report shall be signed by the responsible official for the Shelter Bay Wastewater Treatment Plant and submitted to the addresses in S4.A, Reporting.

S. TREATMENT SYSTEM OPERATING PLAN

WASTEWATER TREATMENT SYSTEMS SHALL BE OPERATED ACCORDING TO PROCEDURES AND CRITERIA DESCRIBED IN AN APPROVED OPERATING PLAN. THIS PLAN SHALL BE SUBMITTED FOR THE DEPARTMENT REVIEW AND APPROVAL WITHIN 180 DAYS OF THE DATE OF THE ISSUANCE DATE OF THIS PERMIT. THE PLAN SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:

A BASELINE OPERATING CONDITION WHICH DESCRIBES THE OPERATING PARAMETERS AND PROCEDURES USED TO MEET THE EFFLUENT LIMITATIONS OF S1. AT THE PRODUCTION LEVELS USED IN DEVELOPING THESE LIMITATIONS.

IN THE EVENT OF PRODUCTION LEVELS WHICH ARE BELOW THE BASELINE LEVELS USED TO ESTABLISH THESE LIMITATIONS, THE PLAN SHALL DESCRIBE THE OPERATING PROCEDURES AND CONDITIONS NEEDED TO MAINTAIN DESIGN TREATMENT EFFICIENCY. THE MONITORING AND REPORTING SHALL BE DESCRIBED IN THE PLAN.

A DESCRIPTION OF ANY REGULARLY SCHEDULED MAINTENANCE OR REPAIR ACTIVITIES AT THE PERMITTED FACILITIES WHICH WOULD AFFECT THE VOLUME OR CHARACTER OF THE WASTES DISCHARGED; A LIST INCLUDING QUANTITIES AND CHEMICAL COMPOSITIONS OF ANY MAINTENANCE-RELATED SUBSTANCES (SUCH AS CLEANERS, DEGREASERS, SOLVENTS, ETC.) THAT WILL BE DISCHARGED, AND A PLAN FOR MONITORING AND TREATING/CONTROLLING THE DISCHARGE OF MAINTENANCE-RELATED MATERIALS.

GENERAL CONDITIONS

G1. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Permit Administrator shall be signed and certified.

A. All permit applications shall be signed by either a principal executive officer or a ranking elected official of the Swinomish Reservation Sewer District, Shelter Bay.

B. All reports required by this permit and other information requested by the Permit Administrator shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1.

The authorization is made in writing by the responsible official described above and submitted to the Permit Administrator, and

2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for

environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

- C. Changes to authorization. If an authorization under paragraph B.2. above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of B.2. must be submitted to the Permit Administrator prior to or together with any reports, information, or applications to be signed by an authorized representative.
- D. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

**AFTER CONSIDERATION OF THE FACTORS ABOVE AND THE ADVERSE EFFECTS OF THE PROPOSED BYPASS, THE DEPARTMENT WILL APPROVE OR DENY THE REQUEST. APPROVAL OF A REQUEST TO BYPASS WILL BE BY ADMINISTRATIVE ORDER UNDER RCW 90.48.120.G26. RIGHT OF ENTRY**

The Permittee shall allow an authorized representative of the Permit Administrator, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the premises where a discharge is located or where any records must be kept under the terms and conditions of this permit;
- B. To have access to and copy at reasonable times any records that must be kept under the terms of the permit;
- C. To inspect at reasonable times any monitoring equipment or method of monitoring required in the permit;
- D. To inspect at reasonable times any collection, treatment, pollution management, or discharge facilities; and
- E. To sample at reasonable times any discharge of pollutants.

**G2. — PROPER OPERATION AND MAINTENANCE**

**THE PERMITTEE SHALL AT ALL TIMES PROPERLY OPERATE AND MAINTAIN ALL FACILITIES AND SYSTEMS OF COLLECTION, TREATMENT, AND CONTROL (AND RELATED APPURTENANCES) WHICH ARE INSTALLED OR USED BY THE PERMITTEE FOR POLLUTION CONTROL. ERROR! BOOKMARK NOT DEFINED:G3. PERMIT ACTION ERROR! BOOKMARK NOT D**

This permit is subject to modification, revocation and reissuance, or termination at the request of any interested person (including the permittee) or upon EPA initiative.

However, permits may only be modified, revoked, or terminated for the reasons specified in 40 CFR 122.62 or 122.64, and 40 CFR 124.5. This includes new information which was not available at the time of issuance and would have justified the application of different permit conditions at the time of issuance, including but not limited to future monitoring results. All requests for permit modification must be addressed to EPA in writing and shall contain facts or reasons supporting the request. If cause exists, the Permit Administrator, in consultation with the Tribe, may decide to modify, revoke and reissue, or terminate the permit.

#### **G4. — NONCOMPLIANCE NOTIFICATION**

**IF FOR ANY REASON, THE PERMITTEE DOES NOT COMPLY WITH, OR WILL BE UNABLE TO COMPLY WITH, ANY OF THE DISCHARGE LIMITATIONS OR OTHER CONDITIONS SPECIFIED IN THE PERMIT, THE PERMITTEE SHALL, AT A MINIMUM, PROVIDE THE DEPARTMENT WITH THE FOLLOWING INFORMATION:**

**A. — A DESCRIPTION OF THE NATURE AND CAUSE OF NONCOMPLIANCE, INCLUDING THE QUANTITY AND QUALITY OF ANY UNAUTHORIZED WASTE DISCHARGES;**

**B. — THE PERIOD OF NONCOMPLIANCE, INCLUDING EXACT DATES AND TIMES AND/OR THE ANTICIPATED TIME WHEN THE PERMITTEE WILL RETURN TO COMPLIANCE; AND**

**C. — THE STEPS TAKEN, OR TO BE TAKEN, TO REDUCE, ELIMINATE, AND PREVENT RECURRENCE OF THE NONCOMPLIANCE.**

**IN ADDITION, THE PERMITTEE SHALL TAKE IMMEDIATE ACTION TO STOP, CONTAIN, AND CLEAN UP ANY UNAUTHORIZED DISCHARGES AND TAKE ALL REASONABLE STEPS TO MINIMIZE ANY ADVERSE IMPACTS TO WATERS OF THE STATE AND CORRECT THE PROBLEM. THE PERMITTEE SHALL NOTIFY THE DEPARTMENT BY TELEPHONE SO THAT AN INVESTIGATION CAN BE MADE TO EVALUATE ANY RESULTING IMPACTS AND THE CORRECTIVE ACTIONS TAKEN TO DETERMINE IF ADDITIONAL ACTION SHOULD BE TAKEN.**

**IN THE CASE OF ANY DISCHARGE SUBJECT TO ANY APPLICABLE TOXIC POLLUTANT EFFLUENT STANDARD UNDER SECTION 307(A) OF THE CLEAN WATER ACT, OR WHICH COULD CONSTITUTE A THREAT TO HUMAN HEALTH, WELFARE, OR THE ENVIRONMENT, 40 CFR PART 122 REQUIRES THAT THE INFORMATION SPECIFIED IN SECTIONS G4.A., G4.B., AND G4.C., ABOVE, SHALL BE PROVIDED NOT LATER THAN 24 HOURS FROM THE TIME THE PERMITTEE BECOMES AWARE OF THE CIRCUMSTANCES. IF THIS INFORMATION IS PROVIDED ORALLY, A WRITTEN SUBMISSION COVERING THESE POINTS SHALL BE PROVIDED WITHIN FIVE DAYS OF THE TIME THE PERMITTEE BECOMES AWARE OF THE CIRCUMSTANCES, UNLESS THE DEPARTMENT WAIVES OR EXTENDS THIS REQUIREMENT ON A CASE-BY-CASE BASIS.**

COMPLIANCE WITH THESE REQUIREMENTS DOES NOT RELIEVE THE PERMITTEE FROM RESPONSIBILITY TO MAINTAIN CONTINUOUS COMPLIANCE WITH THE CONDITIONS OF THIS PERMIT OR THE RESULTING LIABILITY FOR FAILURE TO COMPLY.

**G5. — BYPASS PROHIBITED**

THE INTENTIONAL BYPASS OF WASTES FROM ALL OR ANY PORTION OF A TREATMENT WORKS IS PROHIBITED UNLESS THE FOLLOWING FOUR CONDITIONS ARE MET:

A. — BYPASS IS: (1) UNAVOIDABLE TO PREVENT LOSS OF LIFE, PERSONAL INJURY, OR SEVERE PROPERTY DAMAGE; OR (2) NECESSARY TO PERFORM CONSTRUCTION OR MAINTENANCE-RELATED ACTIVITIES ESSENTIAL TO MEET THE REQUIREMENTS OF THE CLEAN WATER ACT AND AUTHORIZED BY ADMINISTRATIVE ORDER;

B. — THERE ARE NO FEASIBLE ALTERNATIVES TO BYPASS, SUCH AS THE USE OF AUXILIARY TREATMENT FACILITIES, RETENTION OF UNTREATED WASTES, MAINTENANCE DURING NORMAL PERIODS OF EQUIPMENT DOWN TIME, OR TEMPORARY REDUCTION OR TERMINATION OF PRODUCTION;

C. — THE PERMITTEE SUBMITS NOTICE OF AN UNANTICIPATED BYPASS TO THE DEPARTMENT IN ACCORDANCE WITH CONDITION G4. WHERE THE PERMITTEE KNOWS OR SHOULD HAVE KNOWN IN ADVANCE OF THE NEED FOR A BYPASS, THIS PRIOR NOTIFICATION SHALL BE SUBMITTED FOR APPROVAL TO THE DEPARTMENT, IF POSSIBLE, AT LEAST 30 DAYS BEFORE THE DATE OF BYPASS (OR LONGER IF SPECIFIED IN THE SPECIAL CONDITIONS);

D. — THE BYPASS IS ALLOWED UNDER CONDITIONS DETERMINED TO BE NECESSARY BY THE DEPARTMENT TO MINIMIZE ANY ADVERSE EFFECTS. THE PUBLIC SHALL BE NOTIFIED AND GIVEN AN OPPORTUNITY TO COMMENT ON BYPASS INCIDENTS OF SIGNIFICANT DURATION, TO THE EXTENT FEASIBLE.

"SEVERE PROPERTY DAMAGE" MEANS SUBSTANTIAL PHYSICAL DAMAGE TO PROPERTY; DAMAGE TO THE TREATMENT FACILITIES WHICH WOULD CAUSE THEM TO BECOME INOPERABLE, OR SUBSTANTIAL AND PERMANENT LOSS OF NATURAL RESOURCES WHICH CAN REASONABLY BE EXPECTED TO OCCUR IN THE ABSENCE OF A BYPASS. SEVERE PROPERTY DAMAGE DOES NOT MEAN ECONOMIC LOSS CAUSED BY DELAYS IN PRODUCTION.

**G7. — PERMIT MODIFICATIONS**

**ERROR! BOOKMARK NOT DEFINED:G4.      REPORTING A CAUSE FOR MODIFICATION**

Error! Bookmark not defined:The Permittee shall submit a new application or a supplement to the previous whenever a material change in the quantity or type of discharge is anticipated which is not specifically authorized by this permit. This application shall be submitted at least 60 days prior to any proposed changes. Submission of this application does not relieve the Permittee of the duty to comply with the existing permit until it is modified or reissued.

**ERROR! BOOKMARK NOT DEFINED.G5. COMPLIANCE WITH OTHER LAWS AND STATUTES**  
**ERROR! BOOKMARK NOT DEFINED.**

Nothing in the permit shall be construed as excusing the Permittee from compliance with any applicable federal, tribal, state, or local statutes, ordinances, or regulations.

**ERROR! BOOKMARK NOT DEFINED.G6. DUTY TO REAPPLY**  
**ERROR! BOOKMARK NOT DEFINED.**

The Permittee must apply for permit renewal at least 180 days prior to the specified expiration date of this permit.

**G76. REMOVED SUBSTANCES**

Collected screenings, grit, solids, sludge, filter backwash, or other pollutants removed in the course of treatment or control of wastewater shall not be resuspended or reintroduced to the final effluent stream for discharge to SITC waters.

**G810. TOXIC POLLUTANTS**

If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Clean Water Act for a toxic pollutant and that standard or prohibition is more stringent than any limitation upon such pollutant in the permit, the Permit Administrator shall institute proceedings to modify or revoke and reissue the permit to conform to the new toxic effluent standard or prohibition.

**G11. PLAN REVIEW REQUIRED**

Prior to constructing or modifying any wastewater control facilities, detailed plans shall be submitted to the Department for approval in accordance with chapter 173-240 WAC. Facilities shall be constructed and operated in accordance with the approved plan.

**G9. OTHER REQUIREMENTS OF 40 CFR**

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

**G13. COMPLIANCE WITH OTHER LAWS AND STATUTES**

Nothing in the permit shall be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

**G10. ADDITIONAL MONITORING**

The Permit Administrator may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

**G15. REVOCATION FOR NONPAYMENT OF FEES**

The Department may revoke this permit if the permit fees established under chapter 173-224 WAC are not paid.

Error! Bookmark not defined.G11. PENALTIES FOR VIOLATING PERMIT  
CONDITIONSError! Bookmark not defined.

A. Civil and Administrative Penalties.

The Act provides that any person who violates a permit condition implementing Section 301, 302, 306, 307, 308, 318, or 405 of the Act shall be subject to a civil or administrative penalty, not to exceed the maximum amounts specified in Section 309(d) and 3099G) of the Act and the Federal Civil Penalties Inflation Adjustment Act (27 U.S. C. 2461 note) as amended by the Debt collection Improvement Act (31 U.S.C. 3701 note).

B. Criminal Penalties.

1. Negligent Violations. The Act provides that any person who negligently violates a permit condition implementing Sections 301, 301, 306, 307, 308, 318, or 405 of the Act; or negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under Section 402 of this Act; shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or by both.
2. Knowing Violation. The Act provides that any person who negligently violates a permit condition implementing Sections 301, 301, 306, 307, 308, 318, or 405 of the Act; or knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under Section 402 of the Act; shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or by both.
3. Knowing Endangerment. The Act provides that any person who negligently violates a permit condition implementing Sections 301, 301, 306, 307, 308, 318, or 405 of the Act, and who knows at the time that he thereby places another person imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$25,000 or imprisonment of not more than 15 years, or both. A person



which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than \$1,000,000.

4. False Statements. The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both.

Except as provided in permit conditions in Part SF.6., Bypass of Treatment Facilities and Part G12, Upset Conditions, nothing in this permit shall be construed to relieve the Permittee of the civil or criminal penalties for noncompliance.

## **G12. UPSET CONDITIONS**

- A. Effect of an Upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph B of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- B. Conditions necessary for a demonstration of upset. A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous logs, or other relevant evidence that:
  1. An upset occurred and that the Permittee can identify the cause(s) of the upset;
  2. The permitted facility was at the time being properly operated;
  3. The permittee submitted notice of the upset as required under Part S4.E., Twenty four Hour of Notice of Noncompliance Reporting; and
  4. The Permittee complied with any remedial measures required under Part G13, Duty to Mitigate.
- E. Burden of Proof. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

## **G13. DUTY TO MITIGATE**

The Permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

